

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims replaces all prior versions, and listings, of claims in the application. Reexamination and reconsideration in light of the proposed amendments and the following remarks are respectfully requested.

Claim Amendments

In this response, claim 1 has been amended via the inclusion of the allowable subject matter of claim 4 and the subject matter of intermediate claim 2. However, it should be noted that in view of the mutually exclusive subject matter of claims 2 and 4, the amendment to claim 1 is such as call for a sensor arrangement which is configured to generate the first and second images which are recited. This allows claims 2 and 3 to be amended to recite that the sensor arrangement comprises first and second sensors in claim 2, while only one sensor in claim 3.

Claims 5 and 6 have been rewritten to assume independent form. Inasmuch as these claims have been indicated as containing allowable subject matter, it is submitted that these claims now stand in *prima facie* condition for allowance.

Claim 10 has been rewritten to assume independent form and has been amended to allow for the proper antecedent basis for the subject matter of claims 11 and 12. It is submitted that despite the amendments, the subject matter of claim 10 remains allowable over the cited and applied art.

Claim 17 has been amended to assume independent form. This subject matter of this claim is patentable over the applied art for reasons which will be set forth below.

Claim 21 has been amended via the inclusion of the allowable subject matter of claim 22. This claim therefore stands in *prima facie* condition for allowance. Claim 22 has also been made dependent on claim 25 which has been indicated as containing allowable subject matter and which has also been rewritten to assume independent form. Claims 22, 23 and 27 have been amended to depend from claim 25 and thus placed under the protective umbrella of this allowable claim. Finally, Claim 30 has been rewritten to assume independent form, claim 29 has been made dependent on claim 30 and claim 28 has been cancelled.

Rejections under 35 USC § 102

The rejection of claims 17-20 under 35 US § 102(b) as being anticipated by Hada is rendered moot by the admission in the rejection under 35 USC § 103(a) that a second reference to Takeda is necessary to reject the subject matter of claim 17 along with the specific the admission that Hada does not disclose the limitation of claim 17 that the device is an inkjet printer.

The remaining anticipation rejections are deemed rendered moot by the amendments which make use of the allowable subject matter indicated as being found in claims 4-6, 8-16, 22,25-26 and 30-35.

Rejections under 35 USC § 103

The rejection of claims 17-20 under 35 USC § 103(a) as being obvious over Hada in view of Takeda (US 2003/0108372), is respectfully traversed.

First, Takeda is devoid of any reference to an inkjet printer and the passing reference to Wen et al., which appears be relied upon to disclose an inkjet printer arrangement, does not properly identify the reference or formally cite it as forming part of the rejection. An electronic search has uncovered USP 6,189,991 which may be the reference to which reference is being made in this rejection. However, it equally may not be the reference that is apparently being cited. Nevertheless, it is not incumbent on the Applicant to second guess the PTO. Accordingly, if this rejection is maintained, it is submitted that it should be re-presented in a non-final office action and the reference which is being applied, be accurately identified.

Second, the combination of Hada and Takeda could not possibly lead the hypothetical person of ordinary skill to contemplate the use of the teachings of either reference in an inkjet printer, for at least the reason that neither mentions inkjet printers let alone any the application of the disclosed technology to such arrangements.

Third, insufficient motivation is advanced to enable a *prima facie* case of obviousness to be established. The mere reference to an abstract and the indication that "an alignment structure for the print bar that adjusts the position of the print bar to compensate for receiver skew" is disclosed therein, no matter what reference is being relied upon, does not meet the well defined requirements for establishing a *prima facie* case.

More specifically, in rejecting claims under 35 U.S.C. §103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

Conclusion

It is therefore submitted that the claims are allowable over the art for at least the reasons advanced above. Favorable reconsideration and allowance of this application is courteously solicited.

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